

**IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF TEXAS  
HOUSTON DIVISION**

KAWALJEET K. TAGORE,

Plaintiff,

v.

THE UNITED STATES OF AMERICA,  
U.S. DEPARTMENT OF HOMELAND SECURITY;  
FEDERAL PROTECTIVE SERVICE; U.S.  
DEPARTMENT OF THE TREASURY; INTERNAL  
REVENUE SERVICE; MICHAEL CHERTOFF,  
Secretary of the U.S. Department of  
Homeland Security; HENRY M. PAULSON, JR.,  
Secretary of the Treasury; WILLIAM A.  
CARMODY, III; DAVID HIEBERT; CHRISTINA  
NAVARETE-WASSON; SERGIO ARELLANO;  
JAMES K. ELLIS; NIEVES NARVAEZ; and DOES  
1-25

Defendants.

Civil Case No.:4:09cv27

**JURY TRIAL DEMANDED**

**PLAINTIFF'S RESPONSE TO DEFENDANTS' MOTION FOR  
EXTENSION OF TIME TO ANSWER PLAINTIFF'S COMPLAINT AND  
TO POSTPONE MAY 1, 2009 SCHEDULING CONFERENCE**

Plaintiff, Kawaljeet Kaur Tagore, files this Response to the Defendants' Motion for Extension of Time to Answer Plaintiff's Complaint and to Postpone May 1, 2009 Scheduling Conference and respectfully asserts as follows:

**I. FACTS**

1. Plaintiff, Kawaljeet Kaur Tagore, filed the instant federal civil rights action on January 6, 2009.

2. As Plaintiff has sued the United States of America, she effectuated service on the United States of America pursuant to FRCP 4(i)(1)(A) and (1)(B) by serving the United States Attorney for the Southern District of Texas on February 20, 2009 and the Attorney General of the United States on March 3, 2009.

3. As Ms. Tagore has sued agencies of the United States—namely, U.S. Department of Homeland Security; Federal Protective Service; U.S. Department of the Treasury; Internal Revenue Service—she effectuated service on those federal agencies pursuant to FRCP 4(i)(2)(A) by serving the agencies themselves on March 2, 2009, and by serving the United States—through the United States Attorney for the Southern District of Texas on February 20, 2009, and through the Attorney General of the United States on March 3, 2009.

4. As Ms. Tagore has sued present and/or former officers or employees of the United States—namely, Michael Chertoff, Secretary of the U.S. Department of Homeland Security; Henry M. Paulson, Jr., Secretary of the Treasury; William A. Carmody, III; David Hiebert; Christina Navarete-Wasson; Sergio Arellano; and James K. Ellis; Nieves Narvaez—in their *official* capacities, she effectuated service on those officers pursuant to FRCP 4(i)(2)(A) by serving the United States—through the United States Attorney for the Southern District of Texas on February 20, 2009, and through the Attorney General of the United States on March 3, 2009—and by serving the officers/employees themselves as follows: Michael

Chertoff (March 2, 2009); Henry Paulson (March 2, 2009); William Carmody (March 2, 2009); David Hiebert (March 2, 2009); Sergio Arellano (February 23, 2009); James Ellis (February 29, 2009); Christina Navarette-Wasson (March 12, 2009); and Nieves Narvaez (March 5, 2009).

5. Although Ms. Tagore sued the individual federal officers and/or employees in their **individual** capacities, she has not effectuated service upon those officers or employees in their individual capacities pursuant to FRCP 4(i)(2)(B) and has decided not to pursue claims against those officers or employees in their **individual** capacities.

6. Under FRCP 12(a)(3)(A), the United States of America is required to file an answer to Ms. Tagore's Complaint by April 21, 2009—that is, within 60 days after the date (February 20, 2009) the United States Attorney for the Southern District of Texas was served with the Complaint.

7. Under FRCP 12(a)(3)(A), the four (4) federal agencies sued in this action—the U.S. Department of Homeland Security; Federal Protective Service; U.S.

Department of the Treasury; Internal Revenue Service—are required to file an answer to Ms. Tagore's Complaint by April 21, 2009—that is, within 60 days after the date (February 20, 2009) the United States Attorney for the Southern District of Texas was served with the Complaint.

8. Under FRCP 12(a)(3)(A), the eight (8) officers and/or employees of the United States—namely, Michael Chertoff, Secretary of the U.S. Department of Homeland Security; Henry M. Paulson, Jr., Secretary of the Treasury; William A. Carmody, III; David Hiebert; Christina Navarete-Wasson; Sergio Arellano; and James K. Ellis; Nieves Narvaez—sued in their *official* capacities are required to file an answer to Ms. Tagore’s Complaint by April 21, 2009—that is, within 60 days after the date (February 20, 2009) the United States Attorney was served with the Complaint.

9. On April 6, 2009, the United States, the four federal agencies, and the eight federal officers/employees in their *official* capacities filed a Motion for Extension of Time, seeking a **45 day extension (i.e. until June 5, 2009)** to file an answer to Ms. Tagore’s Complaint; and seeking to postpone the May 1, 2009 Scheduling Conference by at least **45 days (i.e. until June 15, 2009)**.

## **II. ARGUMENT**

This Court should deny the Defendants’ requested extension of the answer date and postponement of the May 1, 2009 scheduling conference. It is **undisputed** that the United States of America, its four federal agencies, and its eight federal officers/employees in their official capacities were **all** duly served with the Complaint and that their answer is due on **April 21, 2009**. *See* Motion, at 2 (“Plaintiff filed her Complaint on January 6, 2009. Service was not completed on

the Federal Defendants’ until February 20, 2009. Pursuant to Fed. R. Civ. P. 12(a)(2), Federal Defendants’ Response is currently due on April 21, 2009.”). It is also undisputed that all of these federal defendants’ legal counsel “received this case” on **March 16, 2009**. *Id.*, at 3 (“Undersigned counsel received this case on March 16, 2009...”). Therefore, there is simply no plausible reason why these defendants cannot file an answer within the mandatory deadline, April 21, 2009.

The duly served federal defendants argue that they should not be required to answer or attend the May 1, 2009 scheduling conference because Ms. Tagore has not served some of the eight (8) federal officers/employees in their **individual** capacities. However, Ms. Tagore no longer intends to pursue claims against these officers/employees in their **individual** capacities. Therefore, the extant defendants’ argument is moot.

Finally, this Court should note that—as Ms. Tagore’s Complaint reflects—the duly served federal defendants arguably violated her federally protected rights beginning on **April 20, 2005**. *See* Complaint, at para. 36. Therefore, as of the Defendants’ answer date (April 21, 2009), Ms. Tagore will have waited **four (4) years** to for her **first** day in Court. With all due respect, Ms. Tagore should not be forced to wait any longer.

For the foregoing reasons, Plaintiff, Kawaljeet Kaur Tagore, respectfully requests that this Court deny Defendants' Motion for Extension of Time to Answer Plaintiff's Complaint and to Postpone May 1, 2009 Scheduling Conference

Respectfully submitted,

**/s/ Scott Newar**

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### **CERTIFICATE OF FILING/SERVICE**

I hereby certify that on April 16, 2009, I filed and served the instant pleading on the Defendants by electronic filing, in accordance with the Local Rules of the Southern District of Texas.

**/s/ Scott Newar**

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